

HOUSE BILL NO. 309

INTRODUCED BY C. YOUNKIN, FRANKLIN, JACOBSON, KAUFMANN, LEE, LENHART, STONINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE HEALTH CARE PROVIDER LIEN LAWS TO AMBULATORY SURGICAL FACILITIES; AMENDING SECTIONS 71-3-1111, 71-3-1112, 71-3-1113, 71-3-1114, 71-3-1115, 71-3-1117, AND 71-3-1118, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-3-1111, MCA, is amended to read:

"71-3-1111. Short title. This part may be cited as the "Physician, Nurse, Physical Therapist, Occupational Therapist, Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor, ~~and Hospital, and Ambulatory Surgical Facility~~ Lien Act"."

Section 2. Section 71-3-1112, MCA, is amended to read:

"71-3-1112. Purpose. The purpose of this part is to establish lien rights for physicians, nurses, physical therapists, occupational therapists, chiropractors, ~~persons practicing dentistry~~ dentists, ~~and hospitals, and ambulatory surgical facilities~~ for the value of services rendered and products provided for the diagnosis and treatment of medical conditions and to establish lien rights for psychologists, licensed social workers, and licensed professional counselors for services rendered and products provided when a person receiving treatment:

- (1) is injured through the fault or neglect of another; or
- (2) is either insured or a beneficiary under insurance."

Section 3. Section 71-3-1113, MCA, is amended to read:

"71-3-1113. Definitions. As used in this part, the following definitions apply:

- (1) "Ambulatory surgical facility" means a facility registered as provided in 50-32-314.
- ~~(1)~~(2) "Beneficiary" means a person entitled to insurance benefits.
- (3) "Dentist" means a person practicing dentistry as provided in 37-4-101.

(2)(4) "Insurance" means a contract whereby a person, the insurer, undertakes to indemnify another, the insured, or pay or provide a determinable amount or benefit upon determinable contingencies.

(5) ~~The term "insurer"~~ "Insurer" includes a health service corporation.

(3)(6) "Person" means an individual, a corporation, an organization, or other legal entity."

Section 4. Section 71-3-1114, MCA, is amended to read:

"71-3-1114. Liens of physicians, nurses, physical therapists, occupational therapists, chiropractors, ~~persons practicing dentistry~~ dentists, and hospitals, and ambulatory surgical facilities and liens of psychologists, licensed social workers, and licensed professional counselors. (1) (a) Upon the required notice of a lien being given, there is a lien as provided in subsection (1)(b) whenever:

(i) a physician, nurse, physical therapist, occupational therapist, chiropractor, ~~person practicing dentistry~~ dentist, or hospital, or ambulatory surgical facility renders services or provides products for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor renders services or provides products; and

(iii) the services rendered or products provided under subsection (1)(a)(i) or (1)(a)(ii) are rendered or provided to a person injured through the fault or neglect of another.

(b) The physician, nurse, physical therapist, occupational therapist, chiropractor, ~~person practicing dentistry~~ dentist, hospital, ambulatory surgical facility, psychologist, licensed social worker, or licensed professional counselor has a lien for the value of services rendered or products provided on:

(i) any claim or cause of action that the injured person or the injured person's estate or successors may have for injury, disease, or death;

(ii) any judgment that the injured person or the estate or successors may obtain for injury, disease, or death; and

(iii) all money paid in satisfaction of the judgment or in settlement of the claim or cause of action.

(2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of injury or disease, there is a lien as provided in subsection (2)(b) upon required notice of a lien being given by:

(i) a physician, nurse, physical therapist, occupational therapist, chiropractor, ~~person practicing dentistry~~ dentist, or hospital, or ambulatory surgical facility for the value of services rendered or products

1 provided for the diagnosis and treatment of a medical condition; or

2 (ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered
3 or products provided.

4 (b) The lien is on all proceeds or payments, except payments for property damage, payable by the
5 insurer.

6 (3) The lien is subject to the lien of an attorney provided in 37-61-420."
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8 **Section 5.** Section 71-3-1115, MCA, is amended to read:

9 **"71-3-1115. Notice of lien.** (1) A physician, nurse, physical therapist, occupational therapist,
10 chiropractor, ~~person practicing dentistry~~ dentist, psychologist, licensed social worker, licensed professional
11 counselor, ~~or hospital, or ambulatory surgical facility~~ claiming a lien shall serve written notice upon the
12 person and upon the insurer, if any, against whom liability for injury, disease, counseling service, or death
13 is asserted, stating the nature of the services, for whom and when rendered, the value of the services,
14 and that a lien is claimed.

15 (2) A physician, nurse, physical therapist, occupational therapist, chiropractor, ~~person practicing~~
16 ~~dentistry~~ dentist, psychologist, licensed social worker, licensed professional counselor, ~~or hospital, or~~
17 ambulatory surgical facility claiming a lien upon proceeds or payments payable by an insurer shall serve
18 written notice upon the insurer against whom the lien is asserted, stating the nature of the services, for
19 whom and when rendered, the value of the services, and that a lien is claimed."
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21 **Section 6.** Section 71-3-1117, MCA, is amended to read:

22 **"71-3-1117. Liability for failure to recognize lien.** If any insurer or person, after receiving notice
23 of lien, makes payment on account of injury, disease, counseling service, or death and the amount of the
24 lien claimed by any physician, nurse, physical therapist, occupational therapist, chiropractor, ~~person~~
25 ~~practicing dentistry~~ dentist, psychologist, licensed social worker, licensed professional counselor, ~~or~~
26 ~~hospital, or ambulatory surgical facility~~ has not been paid, the insurer or person is liable to the physician,
27 nurse, physical therapist, occupational therapist, chiropractor, ~~person practicing dentistry~~ dentist,
28 psychologist, licensed social worker, licensed professional counselor, ~~or hospital, or ambulatory surgical~~
29 facility for the reasonable value of the services."
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Section 7. Section 71-3-1118, MCA, is amended to read:

"71-3-1118. Applicability. (1) Except as provided in subsection (2), this part does not apply to compensation awarded to workers for injury, disease, or death pursuant to the Workers' Compensation Act or the Occupational Disease Act of Montana.

(2) This part applies to all payments awarded for medical, therapy, chiropractic, dentistry, counseling, and hospital services pursuant to the acts referred to in subsection (1).

(3) This part does not apply to any benefits payable under:

(a) a policy of life insurance or group life insurance;

(b) a contract of disability insurance, except benefits payable in reimbursement for services rendered by a physician, nurse, physical therapist, occupational therapist, chiropractor, ~~person practicing dentistry~~ dentist, psychologist, licensed social worker, licensed professional counselor, ~~or hospital, or ambulatory surgical facility~~; or

(c) an annuity contract or to pension benefits payable under a qualified pension plan."

NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

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